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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JAMES GUSMAN, individually and on ) Case No.  
behalf of all others similarly situated, )

Plaintiff, )

vs. )

TORRES CREDIT SERVICES, INC., )  
Defendant. )

**CLASS ACTION**

**COMPLAINT FOR VIOLATIONS  
OF:**

1. NEGLIGENT VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]
2. WILLFUL VIOLATIONS  
OF THE TELEPHONE  
CONSUMER PROTECTION  
ACT [47 U.S.C. §227 ET  
SEQ.]
3. VIOLATIONS OF THE  
ROSENTHAL FAIR DEBT  
COLLECTION PRACTICES  
ACT [CAL. CIV. CODE  
§1788 ET SEQ.]
4. VIOLATIONS OF THE  
FEDERAL FAIR DEBT  
COLLECTION PRACTICES  
ACT [15 U.S.C. 1692 ET  
SEQ.]

**DEMAND FOR JURY TRIAL**

Plaintiff James Gusman ("Plaintiff"), individually and on behalf of all

1 others similarly situated, alleges the following upon information and belief based  
2 upon personal knowledge:

3 **NATURE OF THE CASE**

4 1. Plaintiff brings this action individually and on behalf of all others  
5 similarly situated seeking damages and any other available legal or equitable  
6 remedies resulting from the illegal actions of Torres Credit Services, Inc.  
7 (“Defendant”) in negligently, knowingly, and/or willfully contacting Plaintiff on  
8 Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection  
9 Act, 47. U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.  
10 Ancillary to the claims above, Plaintiff further alleges claims for Defendant’s  
11 violations of the Rosenthal Fair Debt Collection Practices Act (“RFDCPA”) and  
12 the federal Fair Debt Collection Practices Act (FDCPA), both of which prohibit  
13 debt collectors from engaging in abusive, deceptive, and unfair practices

14 **JURISDICTION & VENUE**

15 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
16 a resident of California, seeks relief on behalf of a Class, which will result in at  
17 least one class member belonging to a different state than that of Defendant, a  
18 company with its principal place of business and State of Incorporation in  
19 Pennsylvania state. Plaintiff also seeks up to \$1,500.00 in damages for each call  
20 in violation of the TCPA, which, when aggregated among a proposed class in the  
21 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.  
22 Therefore, both diversity jurisdiction and the damages threshold under the Class  
23 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has  
24 jurisdiction.

25 3. Venue is proper in the United States District Court for the Central  
26 District of California pursuant to 18 U.S.C. 1391(b) and 18 U.S.C. § 1441(a)  
27 because Defendant does business within the state of California and the Central  
28 District of California.

**PARTIES**

4. Plaintiff, James Gusman (“Plaintiff”), is a natural person residing in Los Angeles, California and is a “person” as defined by *47 U.S.C. § 153 (10)*, is a “debtor” as defined by Cal. Civ. Code §1788.2(h), and is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3).

5. Defendant, Torres Credit Services, Inc. (“Defendant”), is a “person” as defined by *47 U.S.C. § 153 (10)*. Further, Defendant was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a “consumer debt,” as defined by Cal. Civ. Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due to another, and therefore is a “debt collector” as defined by the RFDCPA, Cal. Civ. Code §1788.2(c) and the FDCPA, 15 U.S.C. §1692a(6).

**FACTUAL ALLEGATIONS**

6. At various and multiple times prior to the filing of the instant Complaint, including within the one year preceding the filing of this Complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

7. Beginning in and around November of 2015, Defendant contacted Plaintiff on his cellular telephone in an attempt to collect an alleged outstanding debt.

8. Defendant was calling Plaintiff on her cellular telephone number ending in -8002.

9. Defendant used an “automatic telephone dialing system”, as defined by *47 U.S.C. § 227(a)(1)* to place its daily calls to Plaintiff seeking to collect the debt allegedly owed.

10. Defendant called Plaintiff on his cellular telephone with enough frequency to constitute harassment under the circumstance.

11. Defendant’s calls constituted calls that were not for emergency purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

1           12. Defendant's calls were placed to telephone number assigned to a  
2 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
3 pursuant to 47 U.S.C. § 227(b)(1).

4           13. Defendant never received Plaintiff's "prior express consent" to  
5 receive calls using an automatic telephone dialing system or an artificial or  
6 prerecorded voice on her cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

7           14. Defendant's conduct violated the RFDCPA and the FDCPA in  
8 multiple ways, including but not limited to:

- 9
- 10           a) Causing Plaintiff's telephone to ring repeatedly or  
11 continuously with intent to harass, annoy or abuse  
12 Plaintiff (§1692d(5));
- 13           b) Communicating with Plaintiff at times or places which  
14 were known or should have been known to be  
15 inconvenient for Plaintiff (§ 1692c(a)(1));
- 16           c) Causing a telephone to ring repeatedly or continuously  
17 to annoy Plaintiff (Cal Civ Code §1788.11(d));
- 18           d) Communicating, by telephone or in person, with  
19 Plaintiff with such frequency as to be unreasonable and  
20 to constitute an harassment to Plaintiff under the  
21 circumstances (Cal Civ Code §1788.11(e)); and,
- 22           e) Engaging in conduct the natural consequence of which  
23 is to harass, oppress, or abuse Plaintiff (§1692d)).

24           15. Defendant's conduct violated the TCPA by:

- 25           a) using any automatic telephone dialing system or an  
26 artificial or pre-recorded voice to any telephone  
27 number assigned to a paging service, cellular  
28 telephone service, specialized mobile radio service,  
or other radio common carrier service, or any service

1 for which the called party is charged for the call (47  
2 USC §227(b)(A)(iii)).

3 16. As a result of the above violations of the RFDCPA, FDCPA and  
4 TCPA, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings,  
5 personal humiliation, embarrassment, mental anguish and emotional distress, and  
6 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,  
7 and costs and attorney's fees.  
8

9  
10 **CLASS ALLEGATIONS**

11 17. Plaintiff brings this action individually and on behalf of all others  
12 similarly situated, as a member of the proposed class (hereafter "The Class")  
13 defined as follows:  
14

15 All persons within the United States who received any  
16 collection telephone calls from Defendant to said  
17 person's cellular telephone made through the use of any  
18 automatic telephone dialing system or an artificial or  
19 prerecorded voice and such person had not previously  
20 consented to receiving such calls within the four years  
21 prior to the filing of this Complaint

22 18. Plaintiff represents, and is a member of, The Class, consisting of All  
23 persons within the United States who received any collection telephone calls from  
24 Defendant to said person's cellular telephone made through the use of any  
25 automatic telephone dialing system or an artificial or prerecorded voice and such  
26 person had not previously not provided their cellular telephone number to  
27 Defendant within the four years prior to the filing of this Complaint.

28 19. Defendant, its employees and agents are excluded from The Class.  
Plaintiff does not know the number of members in The Class, but believes the

1 Class members number in the thousands, if not more. Thus, this matter should be  
2 certified as a Class Action to assist in the expeditious litigation of the matter.

3 20. The Class is so numerous that the individual joinder of all of its  
4 members is impractical. While the exact number and identities of The Class  
5 members are unknown to Plaintiff at this time and can only be ascertained  
6 through appropriate discovery, Plaintiff is informed and believes and thereon  
7 alleges that The Class includes thousands of members. Plaintiff alleges that The  
8 Class members may be ascertained by the records maintained by Defendant.

9 21. Plaintiff and members of The Class were harmed by the acts of  
10 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
11 and Class members via their cellular telephones thereby causing Plaintiff and  
12 Class members to incur certain charges or reduced telephone time for which  
13 Plaintiff and Class members had previously paid by having to retrieve or  
14 administer messages left by Defendant during those illegal calls, and invading the  
15 privacy of said Plaintiff and Class members.

16 22. Common questions of fact and law exist as to all members of The  
17 Class which predominate over any questions affecting only individual members  
18 of The Class. These common legal and factual questions, which do not vary  
19 between Class members, and which may be determined without reference to the  
20 individual circumstances of any Class members, include, but are not limited to,  
21 the following:

- 22 a. Whether, within the four years prior to the filing of this  
23 Complaint, Defendant made any collection call (other than a  
24 call made for emergency purposes or made with the prior  
25 express consent of the called party) to a Class member using  
26 any automatic telephone dialing system or any artificial or  
27 prerecorded voice to any telephone number assigned to a  
28 cellular telephone service;



1 to The Class, thereby making appropriate final and injunctive relief with regard to  
2 the members of the California Class as a whole.

3 **FIRST CAUSE OF ACTION**

4 **Negligent Violations of the Telephone Consumer Protection Act**

5 **47 U.S.C. §227 et seq.**

6 28. Plaintiff repeats and incorporates by reference into this cause of  
7 action the allegations set forth above at Paragraphs 1-27.

8 29. The foregoing acts and omissions of Defendant constitute numerous  
9 and multiple negligent violations of the TCPA, including but not limited to each  
10 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

11 30. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*  
12 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in  
13 statutory damages, for each and every violation, pursuant to *47 U.S.C. §*  
14 *227(b)(3)(B).*

15 31. Plaintiff and the Class members are also entitled to and seek  
16 injunctive relief prohibiting such conduct in the future.

17 **SECOND CAUSE OF ACTION**

18 **Knowing and/or Willful Violations of the Telephone Consumer Protection**  
19 **Act**

20 **47 U.S.C. §227 et seq.**

21 32. Plaintiff repeats and incorporates by reference into this cause of  
22 action the allegations set forth above at Paragraphs 1-31.

23 33. The foregoing acts and omissions of Defendant constitute numerous  
24 and multiple knowing and/or willful violations of the TCPA, including but not  
25 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*  
26 *seq.*

27 34. As a result of Defendant's knowing and/or willful violations of *47*  
28 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of



1 \$1,500.00 in statutory damages, for each and every violation, pursuant to 47  
2 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

3 35. Plaintiff and the Class members are also entitled to and seek  
4 injunctive relief prohibiting such conduct in the future.

5 **THIRD CAUSE OF ACTION**

6 **Violations of the Rosenthal Fair Debt Collection Practices Act**

7 **Cal. Civ. Code § 1788 et seq.**

8  
9 36. Plaintiff repeats and reincorporates by reference into this cause of  
10 action allegations set forth above at paragraphs 1-35.

11 37. To the extent that Defendant's actions, counted above, violated the  
12 RFDCPA, those actions were done knowingly and willfully.

14  
15 **FOURTH CAUSE OF ACTION**

16 **Violations of the federal Fair Debt Collection Practices Act**

17 **15 U.S.C. § 1692 et seq.**

18 38. Plaintiff repeats and reincorporates by reference into this cause of  
19 action allegations set forth above at paragraphs 1-30.

20 39. To the extent that Defendant's actions, counted above, violated the  
21 FDCPA, those actions were done knowingly and willfully.

22  
23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

25 **FIRST CAUSE OF ACTION**

26 **Negligent Violations of the Telephone Consumer Protection Act**

27 **47 U.S.C. §227 et seq.**

- 28
  - As a result of Defendant's negligent violations of 47 U.S.C.

§227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).

- Any and all other relief that the Court deems just and proper.

## **SECOND CAUSE OF ACTION**

### **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

#### **47 U.S.C. §227 et seq.**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

## **THIRD CAUSE OF ACTION**

### **Violations of the Rosenthal Fair Debt Collection Practices Act Cal. Civ. Code § 1788 et seq.**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

///

**FOURTH CAUSE OF ACTION**

**Violations of the Federal Fair Debt Collection Practices Act**

**15 U.S.C. § 1692 et seq.**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

Respectfully Submitted this 12<sup>th</sup> day of January, 2016.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman  
Todd M. Friedman  
Law Offices of Todd M. Friedman  
Attorney for Plaintiff